

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

VENTURE INDUSTRIES, INC.

Employer

and

CASE 7-RC-21591

INTERNATIONAL UNION, UNITED AUTOMOBILE,
AEROSPACE AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA (UAW), AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,^{1/} the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.^{2/}
5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:^{3/}

All full-time and regular part-time production and maintenance employees employed by the Employer at its facilities located at 10230 North Holly Road, Grand Blanc, Michigan, and G-3367 Corunna Road, Flint, Michigan, including assemblers, data technicians, engineer technicians, lab technicians, line workers (including maskers), machine operators, manufacturing support, material handlers (including shipping employees), mold setters, mold maintenance, paint maintenance, paint mixers, paint line support, painters, paint technicians, process technicians, quality assurance (including customer service representatives), and quest coordinators, but excluding office-clerical employees, professional employees, temporary employees, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION^{4/}

An election by secret ballot shall be conducted under the direction and supervision of the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military service of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

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LIST OF VOTERS^{5/}

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision 2 copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. The list must be of sufficient clarity to be clearly legible. The list may be submitted by facsimile transmission, in which case only one copy need be submitted. In order to be timely filed, such list must be received in the **DETROIT REGIONAL OFFICE** on or before **JULY 7, 1999**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court, 1099 14th Street N.W., Washington D.C. 20570**. This request must be received by the Board in Washington by **JULY 14, 1999**.



Dated June 30, 1999

at Detroit, Michigan

/s/ Stephen M. Glasser

Acting Regional Director, Region Seven

**Section 103.20 of the Board's Rules concerns the posting of election notices.
Your attention is directed to the attached copy of that Section.**

1/ The parties waived the filing of briefs.

2/ Prior to hearing, the Employer filed a motion and supporting brief to dismiss the petition herein on the grounds that the petition was filed within one year of the Board's certification of results of a prior election held in a unit of "[a]ll full-time and regular part-time employees employed by the Employer at its facility located at 10230 North Holly Road, Grand Blanc, Michigan..." Indeed, on April 7, 1999, the Regional Director issued a Certification of Results of Election based on a revised tally of ballots issued on March 30, 1999, after challenged ballots were opened pursuant to a Board order dated March 19, 1999. *Venture Industries*, 327 NLRB No. 165. However, the election itself had taken place on August 8, 1996, and the ballots were impounded based upon the determinative challenged ballot.

The petition in the instant matter was filed on June 9, 1999. It is well settled that Section 9(c)(3), by its express language, prohibits the holding of an election in any unit or subdivision thereof in which a valid **election** was held during the preceding 12 months. The 12-month period runs from the date of the balloting, not from the date of the certification. *Mallinckrodt Chemical Works*, 84 NLRB 291 (1949); *Retail Wholesale Union Local 69*, 134 NLRB 686, 688 fn. 5 (1961). The Employer argues that the Board should reconsider the validity of the election bar rule and should instead bar any election within one-year from the date of the tally of ballots or certification of results. However, I lack the authority to overrule the Board's longstanding interpretation of Section 9(c)(3), and I decline to do so.

Furthermore, the petition in the instant case covers "all full-time and regular part-time production and maintenance employees employed by the Employer at its facilities located at 10230 North Holly Road, Grand Blanc, Michigan, and G-3367 Corunna Road, Flint, Michigan...", which is a broader unit than that wherein the election was previously held. Section 9(c)(3) does not preclude for a 12-month period the holding of an election in a larger unit where there has been a previous election in a smaller unit because the subsequent election is not being conducted in a "unit or any subdivision" in which the earlier election was held. *Allegheny Pepsi-Cola Bottling Co.*, 222 NLRB 1298 (1976); *Thiokol Chemical Corp.*, 123 NLRB 888 (1959).

3/ The unit appears as stipulated by the parties.

4/ The parties have agreed to an election date of Thursday, August 5, 1999.

5/ If the election involves professional and nonprofessional employees, it is requested at separate lists be submitted for each voting group.